

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EUGENIA KALOUDIS, Individually,  
and as Administratrix of the Estate  
of GEORGE KALOUDIS, Deceased

**VS.**

STAR TRANSPORT, INC.  
and BRIAN L. MILES

CIVIL ACTION

NO. 02-CV-4482

**MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL ANSWERS TO  
INTERROGATORIES 2 & 3 AND REQUEST FOR PRODUCTION 12**

Plaintiff relies on the authorities and arguments contained in its motion.

Respectfully submitted,

January 16, 2003

A. Roy DeCaro  
Raynes, McCarty, Binder, Ross & Mundy  
1845 Walnut Street, Suite 2000  
Philadelphia, PA 19103  
215-568-6190

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EUGENIA KALOUDIS, Individually,	:	CIVIL ACTION
and as Administratrix of the Estate	:	
of GEORGE KALOUDIS, Deceased	:	
	:	
vs.	:	
	:	
STAR TRANSPORT, INC.	:	
and BRIAN L. MILES	:	NO. 02-CV-4482

**ORDER**

Upon consideration of plaintiff's motion to compel answers to interrogatories 2 and 3 and request for production 12 and defendants' response thereto, it is hereby ORDERED that plaintiff's motion is granted. Defendant Star shall provide full and complete answers to interrogatories 2 and 3 and request for production 12, without objection, no later than 20 days after receipt of this ORDER.

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Hon. Bruce W. Kauffman  
United States District Judge

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VS.

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CIVIL ACTION

NO. 02-CV-4482

**PLAINTIFF'S MOTION TO COMPEL ANSWERS TO  
INTERROGATORIES 2 & 3 AND REQUEST FOR PRODUCTION 12**

1. This is a negligence action stemming from the death of plaintiff's decedent George Kaloudis ("Mr. Kaloudis").
2. Plaintiff asserts claims under Pennsylvania's wrongful death and survivorship statutes.
3. Mr. Kaloudis burned to death on April 3, 2002 when a truck operated by defendants crushed Mr. Kaloudis' car against a median barrier on Route 1 in Delaware County.
4. Plaintiff's complaint alleges that (a) defendant Miles negligently operated a Star Transport, Inc. ("Star") vehicle that he was driving on April 3, 2002, and (b) defendant Star negligently hired and supervised Miles (the "Negligent Entrustment Claim").
5. The complaint was filed on June 18, 2002 in the Court of Common Pleas of Philadelphia County.
6. On July 8, 2002, Defendants removed the matter to Federal Court pursuant to 28 U.S.C. § 1441.

7. Jurisdiction is based on diversity of citizenship. 28 U.S.C. § 1332.
8. On November 25, 2002, plaintiff's counsel served interrogatories and requests for production of documents on counsel for defendants.
9. On January 10, 2003, defense counsel served plaintiff's counsel with defendants' responses. A true and correct copy of plaintiff's interrogatories and defendants' responses is attached hereto as Exhibit 1. A true and correct copy of plaintiff's requests for production of documents and defendants' responses is attached hereto as Exhibit 2.
10. Defense counsel has objected to interrogatories 2 and 3 and request for production 12, claiming that Star need not provide any information about defendant Miles' driving, accident and work histories because the Negligent Entrustment Claim is mooted by Star's admission that Miles was an agent of Star at the time of the accident. See also Defendants' Motion For Partial Summary Judgment, which is attached hereto as Exhibit 3.
11. This position is incorrect for two reasons:

- A. Information from Miles' personnel file, citation history and accident history is reasonably calculated to lead to the discovery of admissible evidence – even if the Court dismisses plaintiff's Negligent

Entrustment Claim. For example, there may be material in Miles' personnel file relating to the accident at issue in this case. There may be information in prior accident or citation files relating to Miles' medical condition, vision or fitness to drive. The possibilities, of course, are endless.

B. Second, the Court may deny Defendants' Motion For Partial Summary Judgment. Although, plaintiffs' just received this motion and a response is not due until February, it is clear at first blush that courts deny such motions when plaintiff can make out a prima facie case for punitive damages as part of its negligent entrustment claim.

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Holben v. Midwest Emery Freight Systems, Inc., 525 F. Supp. 1224,

1225 (W.D. Pa. 1981). Here, defendants seek to put plaintiff in a

Catch-22 by refusing to provide information about Miles' hiring, work and driving history – thereby *assuring* that plaintiff cannot make out a prima facie case for punitive damages as part of the Negligent Entrustment Claim.

12. Pursuant to Federal Rule of Civil Procedure 37(d), plaintiff, Eugenia Kaloudis, respectfully asks the Court to prevent this unjust result by ordering that defendant Star answer interrogatories 2 and 3 and request for production 12.

Respectfully submitted,

January 16, 2003

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CIVIL ACTION

NO. 02-CV-4482

**MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL  
ANSWERS TO INTERROGATORIES 2 & 3 AND REQUEST FOR PRODUCTION  
12\_AND MOTION FOR LEAVE TO FILE A LATE RESPONSE TO DEFENDANTS'  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiff relies on the authorities and arguments contained in its motion.

Respectfully submitted,

January 15, 2003

A. Roy DeCaro  
Raynes, McCarty, Binder, Ross & Mundy  
1845 Walnut Street, Suite 2000  
Philadelphia, PA 19103  
215-568-6190